



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

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PART II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 18th December, 2009:—

I

BILL No. XXIII OF 2009

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2009.

Short title
and com-
mencement.

(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

2. In article 51A of the Constitution, in clause (e), after the words, "dignity of women", the words "to protect and safeguard women from harassment, mental and physical abuse and to desist from giving or taking dowry or encouraging or advocating the same," shall be inserted.

Amendment
of Art. 51A.

STATEMENT OF OBJECTS AND REASONS

Women constitute half of the total population in the country. But they are often harassed, abused, insulted and neglected. Of late, there has been a spurt in dowry related cases resulting in the death of the women. Bringing culprits to book as a crime assuming process and cases in courts remain pending for years and, therefore, it is felt that law alone cannot prevent maltreatment of women. It is necessary to educate people and to sensitize them on gender related issues. It should be the duty of every citizen of the country to renounce violence against women, desist from giving or taking dowry and protect women from crimes. It is, accordingly, proposed to amend the Constitution so as to include this aspect as a fundamental duty of every citizen.

Hence this Bill.

T. SUBBARAMI REDDY

II

BILL NO. XLIV OF 2009

A Bill to provide for compulsory registration of all marriages irrespective of caste, religion and creed in the country and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Compulsory Registration of Marriages Act, 2009.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a state, the Government of that state and other cases, the Central Government.

(b) "prescribed" means prescribed by rules made under this Act.

Registration
of marriage

3. (1) Every marriage performed in the country shall be compulsorily registered within one month of the date of marriage.

(2) The age of marriage shall be twenty four years for male and eighteen years for female.

Authorities
for
registration of
marriages.

4. The marriages shall be registered—

(a) in the office of village Panchayat in the rural areas;

(b) with the Sub-Registrar or Tehsildar, or such Municipal Authority, who may be authorized by the appropriate Government in this behalf, in the urban areas:

Provided that where there is no Panchayat, the marriage shall be registered with the nearest Sub-Registrar or Tehsildar who may be authorized in this behalf.

Maintenance
of marriage
register.

5. (1) The particulars of the marriage to be entered in the marriage register to be maintained by the Panchayat, Sub-Registrar or Tehsildar or Municipal Authority, as the case may be, and the form and manner in which such particulars shall be entered, shall be such as may be prescribed.

(2) The appropriate Government shall also prescribe the documents relating to marriage to be furnished for record at the time of registration.

Issuance of
marriage
certificate.

6. The registering authority shall issue a certificate of marriage recording the age of the male or female and this certificate shall be valid proof of marriage for all practical purposes.

Marriage
solemonised
without
registration to
be null and
void.

7. The marriage solemonised without the registration shall be null and void.

Penalties.

8. Any person violating the previous of this Act the rules there under shall be debarred from such government schemes, as may be prescribed by the appropriate Government in this behalf.

Savings.

9. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force regulating any of the matters dealt with in this Act.

Power to
make rules.

10. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

There are number of people who are married and are not registered with any Government agency. There have been reports that large sections of men desert women after marriage. Thus, a lot of women are being unnecessarily harassed. There are people who take money from the foreigners, sell their daughters, get them married, who are later on deserted. Number of such cases have come to the notice of the Central and State Governments. Large number of foreigners come and marry only to desert their wives later.

There are number of States where child marriages are still taking place and there is no check on these child marriages by the Central Government or the State Governments. These marriages are mostly unsuccessful. Many women organizations in the country have opposed such practice and have demanded that the Government should check child marriages.

As there is no such compulsion for registration of marriage, it is necessary that the State Governments and the Central Government should make a provision to register all the marriages that have taken place in the country. So, all marriages, in whatever form they are performed should be registered in all the States/UTs in the country. To save women from harassment, it is necessary to have a law for registration of marriages.

The Supreme Court has also urged the Central Government and State Governments to enact a law registration of marriages.

Hence this Bill.

DR. T. SUBBARAMI REDDY

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the matter will relate to detail only, the delegation of legislative power is of a normal character.

III

BILL NO. XXIV OF 2009

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2009.

Amendment
of article 124.

2. In article 124 of the Constitution, after clause (7), the following clause shall be inserted, namely:—

"(8) No person who has held office as a Judge of the Supreme Court shall be eligible for any further office either under the Government of India or under the Government of any State including the Chairmanship or Membership of any Inquiry Commission appointed by the respective Governments after he has ceased to hold that office."

Amendment
of article 217

3. In article 217 of the Constitution, after clause (3), the following clause shall be inserted, namely:—

"(4) No person who has held office as a Judge of the High Court shall be eligible for any further office either under the Government of India or under the Government of any State including the Chairmanship or Membership of any Inquiry Commission appointed by the respective Governments after he has ceased to hold that office."

STATEMENT OF OBJECTS AND REASONS

The Judges of the Supreme Court and High Courts are high dignitaries. In the recent past, it has been observed that Judges are quite often offered lucrative posts after their retirement. In order to maintain dignity of the office which they hold, it is proposed that Judges should not hold any office under the Government after their retirement and they may not be considered for Chairmanship or Membership of any Inquiry Committee or Commission set up by the respective Governments, State or Centre.

Hence this Bill.

T. SUBBARAMI REDDY

IV

BILL NO. XLIII OF 2009

A Bill to provide for framing of a national policy providing for special grants and development of areas affected by Naxalites in the country particularly in Chhattisgarh, Jharkhand, Orissa, Andhra Pradesh, West Bengal and Madhya Pradesh and relief and rehabilitation to the victims of Naxalism and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

Short title,
extent and
commencement.

2009.

1. (1) This Act may be called the Naxalite Affected Areas (Special Provisions) Act,

(2) It extends to the whole of India.

(3) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "Naxalite" means a member of an extreme Maoist group employing tactics of agrarian terrorism and causing violence, kidnapping, arson, etc. in various forms.

(b) "prescribed" means prescribed by rules made under this Act.

45 of 1860.
2 of 1974.
37 of 1967.

(c) words and expressions used and not defined in this Act but defined in the Indian Penal Code, 1860, the Code of Criminal Procedure, 1973 and the Unlawful Activities (Prevention) Act, 1967 shall have the meaning respectively assigned to them in those Acts.

3. (1) The Central Government shall, within six months of the enactment of this Act, in consultation with the Governments of the States affected by naxalite, frame a National Policy for areas affected by Naxalites.

National Policy for areas affected by Naxalites.

(2) For the purposes of implementation of the policy framed under sub section (1) of section 3, the Central Government shall provide special grants by due appropriation made by the Parliament in this behalf, to the areas and States affected by Naxalite violence:

Provided that the special grant provided under sub section (2) of section 3 shall not be less than fifty per cent of the revenue generated from the Naxalite affected areas.

4. The Central Government shall, within one month of the enactment of this Act, in consultation with the State Governments of States affected by Naxalites, notify the districts affected by Naxalites or the States which are affected by Naxalite violence or are under threat of Naxalite violence, in such manner as may be prescribed.

Central Government to notify the Naxal affected areas.

5. For the purposes of countering the violent attacks by Naxalites, the Central Government shall in consultation with the State Governments, raise a special paramilitary force and provide them necessary equipments and training for the purpose.

Special force to counter Naxalite violence.

6. The Central Government shall as soon as may be, in consultation with the State Governments, which are or whose areas are notified under section 4, make all efforts and frame schemes for those Naxalites who intends to given up violence and return to the mainstream of the country *inter alia* providing them with employment and other incentives as may be deemed necessary.

Employment and other incentives to Naxalites, who give up violence

7. Notwithstanding anything contained in any other law for the time being in force, the dependents of a citizen who loses his life in Naxalite violence shall be given relief by the Central Government by paying,—

Compensation to the dependents of persons killed by Naxalites.

(i) an *ex-gratia* grant in the form of compensation of such amount which shall not be less than five lakh rupees in such manner as may be prescribed; and

(ii) financial assistance at the rate of two thousand rupees per month for such period as may be prescribed.

Explanation—For the purposes of this section "dependents" include spouse, children and aged parents who are dependent on the deceased.

8. Any person who is attacked by Naxalites but survives the attack and receives severe injuries thereby permanently incapacitating him or seriously injuring him, the Central Government shall,—

Compensation to survivors of Naxal attack.

(i) bear the entire costs of his medical treatment; and

(ii) pay an *ex-gratia* grant as compensation of not less than two lakh rupees in such manner as may be prescribed.

9. (1) Where the dwelling unit of any family is destroyed or damaged due to torching or bombing by the Naxalites, the Central Government shall,—

Miscellaneous provisions.

(a) provide a dwelling unit to such family in such manner as may be prescribed; and

(b) bear the entire cost of repairs of the damaged dwelling unit.

(2) Where the livestock of a person is eliminated or killed or his standing crop is destroyed by the Naxalites, the Central Government shall pay adequate compensation to the owner of the livestock or the crop, as the case may be, in such manner as may be prescribed.

Central
Government
to provide
funds.

10. The Central Government shall provide, after due appropriation made by Parliament by law in this behalf, adequate funds to the States affected by Naxalite violence for carrying out the purposes of this Act.

Act to have
overriding
effect.

11. The provisions of this Act and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to
make rules.

12. The Central Government may, by notification in Official Gazette, made rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Many parts of our country are in the grip of Naxalite violence. It is being estimated that Naxalite activities have spread over 180 districts of the country across 10 to 13 States covering around forty per cent of the geographical area of the country. The worst affected States are Chhattisgarh, Jharkhand, parts of Orissa, Andhra Pradesh, West Bengal and Madhya Pradesh. These Naxalite groups are operating with different names and recruiting the desperate youth of the areas in their force. They are specially concentrated in the area called 'Red Corridor'. Thousands of people including police and paramilitary personnel have been killed in the Naxalite violence year-after-year. In 2008, 938 persons were killed in Naxalite violence and the number is increasing every year. These Naxal groups are running amok in the affected areas and the people there are living under constant threat and fear. These Naxalites do not spare even women, children and the poor. They are running parallel Government and collecting illegal money from the people of the affected areas. There is no denying the fact that the backwardness and uneven distribution of resources are main causes for the growth of Naxalite activities in the country. Minerals and iron ore in huge quantities worth millions of rupees are dug out from these places and in return nothing is spent from the revenue earned from these areas for its development. But at the same time, it is also true that with the kind of violent activities are being perpetuated by these persons, it is nearly impossible to develop these areas in the normal course. It is also a proven fact that brute force cannot solve this problem. Even the Hon'ble Prime Minister has described it as the biggest threat to India. There is an urgent need that a national policy to tackle the problem should be framed and special efforts are made to bring the directionless youth into the mainstream of the country. These youth should be given amnesty and provided with employment and other incentives.

The situation is grave and is turning ugly with every incident of violence. If proper attention is not given to this problem, it may cause a severe loss to the nation. Therefore, it is high time that a law should be enacted to solve the issues relating the Naxalite violence and provide relief and rehabilitation to the persons affected by these violence.

Hence this Bill.

MABEL REBELLO

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the Central Government shall provide special grants to the areas affected by Naxalite. Clause 5 provides for raising a special force for countering Naxalite violence. Clause 6 provides for employment and incentives for youth shunning violence. Clause 7 provides for compensation to the dependent of persons killed by Naxalites. Clause 8 provides for compensation to person wounded in Naxalite violence. Clause 9 provides for Miscellaneous provisions or Clause 10 makes it mandatory for the Central Government to provide funds for carrying out the purposes of this bill. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees one thousand crore may involve as recurring expenditure per annum.

Non-recurring expenditure to the tune of rupees fifty crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

V

BILL NO. XLII OF 2009

A Bill to formalise the commitment to high quality education; adopt grade specific performance oriented education system; provide for grading of schools by independent agency on the basis of their academic performance; award schools for achieving high academic standard for; establish a system of accountability in education and matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Quality and Accountability in Education Act, 2009.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in case of a State, the Government of the State and in all other cases, the Central Government;

(b) "core academic area" means subjects of Mathematics, English, Social Studies, and Science;

(c) "Oversight Committee" means Education Oversight Committee constituted under section 4;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "standard based assessment" means a system of assessment where an individual's performance is compared to specific performance standard and not to the performance of other students; and

(f) "school" means any educational institution providing education up to the twelfth standard.

Appropriate Government to ensure quality education and establish accountability

3. (1) The appropriate Government shall, within its jurisdiction, ensure high quality educational opportunities to every citizen in the country and establish a system of accountability in the educational system at every level.

(2) For the purpose of providing high quality education, the appropriate Government shall prescribe a system of standard based assessment in the core academic area for assessing the performance of each student and introduce grade specific performance oriented standards in schools.

Central Government to constitute Education oversight committee

4. (1) The Central Government shall by notification in the Official Gazette, constitute a Committee to be known as the Education Oversight Committee to perform the functions assigned under this Act.

(2) The Committee shall consist of,—

(i) Union Minister of Human Resource Development—as Chairman;

(ii) Five Members of Parliament—three from Lok Sabha and two from Rajya Sabha to be nominated by the Speaker, Lok Sabha and Chairman, Rajya Sabha respectively;

(iii) Chairman, University Grants Commission;

(iv) Chairman, All India Council of Technical Education;

(v) Chairman, National Council for Teachers Education;

(vi) Chairman, Indian Council of Historical Research;

(vii) Chairman, Indian Council of Social Science Research;

(viii) Chief Secretary of seven States or Union Territories to be nominated by the Central Government on relation basis in such manner as may be prescribed;

(ix) Chairman, National Council of Education Research and Training;

(x) Chairman, Central Board of Secondary Education;

(xi) Five eminent academicians to be nominated by the Central Government who shall have at least twenty years experience in the field of education;

(xii) Secretary, Department of School Education and Literacy, Ministry of Human Resource Development—as Member Secretary.

(3) The terms and conditions of service of the five eminent academicians shall be such as may be prescribed.

(4) The Department of School Education and Literacy, Ministry of Human Resource Development shall provide the secretarial assistance to the Oversight Committee.

(5) The headquarter of the Oversight Committee shall be in New Delhi and the Oversight Committee shall have its office in each State and Union Territory and at such places as may be decided by the Committee.

5. (1) The functions of the Committee shall be—

Functions of
the Oversight
Committee.

- (a) to review the assessment system in States and Union Territories;
- (b) to devise and review grade specific performance oriented education standards in core area;
- (c) to develop and review the standard based assessment system at various levels in States and Union Territories;
- (d) to develop a comprehensive system of quarterly and annual reporting for rating academic performance;
- (e) to devise and review the tests conducted for evaluating the performance at various levels;
- (f) to make recommendation on any matter relating to quality effectiveness of the education;
- (g) to prepare an annual report and submit it to the Parliament; and
- (h) to devise, review and monitor the implementation and evaluation of education accountability system.

(2) Without prejudice to the generality of the provisions contained in sub-section (1) of section 5, the Oversight Committee shall ensure that the standard based assessment reflects highest level of academic skill with rigor necessary to improve the curriculum and interaction so that the students are encouraged to learn at unprecedented level and shall be the reflection of highest level of academic skill at each grade level.

6. (1) The appropriate Government shall, within its jurisdiction constitute an independent panel, in such manner and with such composition as may be prescribed, for evaluating the performance of schools and awarding grades as per their performance for attaining high quality academic education.

Independent
Panel to grade
and award
school.

(2) Without prejudice to the generality of the provisions in clause (1) of section 6, the composition of the independent panel shall be such so as to have eminent academicians and representatives of Non-Government Organisations working in the field of education in majority.

(3) The independent panel shall always have a representative of the Oversight Committee in its composition.

(4) The appropriate Government shall establish an award giving system in such manner as may be prescribed in each district, to recognise and reward schools for attaining high quality academic achievements on the basis of the recommendation of the independent panel.

7. (1) If any school receives a grade of below average or unsatisfactory the appropriate Government in consultation with the Office of the Oversight Committee shall frame a revival plan and compulsory packages and provide the research based technical assistance on each and every aspect of the schooling.

Revival of
school,
receiving
below average
grade.

(2) The appropriate Government shall, in consultation with the Office of the Oversight Committee also review the accountability system and take such action as may be required for reviving the school at the appropriate grade level.

8. (1) The Oversight Committee shall within six months of the coming into force of this Act establish a task force to prepare a roadmap for involving parents with their children's education.

Task Force for
involving
Parents with
their
children's
education.

(2) The task force shall look for ways to encourage and induce parents to oversee students academic performance and behaviour that contribute to the academic improvement.

Accountability
in
administration
and school.

9. (1) The Oversight Committee shall, through its offices in States and Union Territories, in consultation with State Government establish in each district a performance based accountability system in the district and school administration for providing quality education at the district level.

(2) The appropriate Government shall, ensure the participation of parents, teachers and principals in the development, annual review and revisions of the accountability system established in the district.

(3) Without prejudice to the generality of the provisions contained in sub-section (1) and (2) of section 9, while framing the accountability system, persons shall be identified at district and school level who shall be responsible for various aspects and activities of the school education.

Oversight
Committee to
issue guideline.

10. (1) The Oversight Committee may prescribe norms and issue guidelines in respect of following matters pertaining to school education:—

- (a) clean learning environment and basic infrastructure in schools;
- (b) well lit classrooms with suitable chair, desks and other equipment;
- (c) fully qualified and adequately trained teachers and counselors;
- (d) adequate text books, other learning material and writing material;
- (e) fair and authentic assessment system based on grading;
- (f) teacher-student ratio in each standard;
- (g) time to be devoted by teacher in class room;
- (h) meeting of counselors with students;
- (i) hygienic toilets and drinking water facilities;
- (j) protection from harassment;
- (k) preparedness for disaster mitigation;
- (l) access to co-curricular activities and sports;
- (m) nursing facilities;
- (n) fair and non-discriminatory discipline system;
- (o) well equipped laboratories; and
- (p) parents participation in school activities.

(2) It shall be the duty of the appropriate government to ensure compliance of the norms prescribed and guidelines issued by Oversight Committee through district administration in the district.

(3) The office of the Oversight Committee in States or Union Territories shall monitor the compliance and send a report in this regard to the headquarter annually.

Central
Government
to provide
funds.

11. The Central Government shall, by due appropriation made by Parliament in this regard, provide funds for the purposes of this Act.

Power to
remove
difficulty.

12. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may make such order or give such direction, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for the removal of the difficulty:

Provided that no such order shall be made after the expiry of the period of three years from the date of commencement of this Act.

13. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force but save as aforesaid, the provisions of this Act shall be in addition to and not in derogation of any other law, for the time being in force.

Overriding
effect of this
Act.

14. (1) The Government may by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to
make rules.

(2) Every order and every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament. While it is in Session, for a total period of thirty days, which may be comprised in one Session or in two or more successive Sessions, and if, before the expiry of the Session immediately following the Session or the successive Sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect as the case may be. So, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Literacy is the key to development, health care, employment and last but not the least, to population control. The literacy rate of the country at the time of independence was only fourteen per cent. With the concerted efforts of the successive Governments, the literacy rate has increased and reached to a level of 65.38 per cent. There are many Government schemes which have been launched to increase the number of literates in the country such as, the Serva Shiksha Abhiyan, Education Guarantee Scheme, Alternative and Innovative Education Scheme, District Primary Education Programme, Total Literacy Campaign, Continuing Education Scheme and Mid-Day Meal Programme. Though the literacy level in the country has increased but going by the generally accepted definition of "literacy" and the poor quality of education being imparted in the country, it is not going to have desired impact on the development of the country. As things stand today, not much attention is being paid towards the quality of education in the existing education system and in various schemes or programmes. With the participation of private sector in education, it has become a business as everyone with commerce motive wants to make money by running an educational institution. On the Government side, there is no accountability in various Government run or aided educational institutes if they fails to deliver on quality parameters. As a result the quality of education suffers in such institutes. Education is one of the most powerful instruments for reducing poverty and inequality in the society. It is equally a key to enhance India's competitiveness in the global economy. Therefore, only making the people literate is not going to help. It has to be ensured that access to quality education should be given to all, in particular, to the poor and rural population for economic and social development of the country. In a recent study by ASSOCHAM called 'Comparative Study of Emerging Economies on Quality of Education' in respect of educational quality our country ranks sixth among the seven emerging economies of the world. The study reveals that in terms of quality of secondary education, our country stands at the last position. Therefore, it is necessary that serious attention is paid towards quality of education so that the country may not lose its competitive advantages against other countries in long term. For obtaining quality in education, it is all the most necessary that the system of accountability should be introduced in the administration as well as in educational institutions. The Bill seeks to achieve the above objectives of quality and accountability in educational system in the country.

Hence this Bill.

MABEL REBELLO

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides that the Central Government shall constitute an Education Oversight Committee which shall have its offices in States and Union Territories as well. Clause 8 of the Bill provides that the Oversight Committee shall constitute a task force to prepare a roadmap for involving parents with children's education. Clause 11 of the Bill provides that the Central Government shall provide funds for the purposes of the Bill. Therefore, the Bill, if enacted, will involve expenditure from the consolidated fund of India. It is estimated that an expenditure of rupees one hundred crore per annum will be involved.

A non-recurring expenditure of rupees fifty crore will also be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

VI

BILL NO. XLV OF 2009

A Bill to provide for measures to prevent and eradicate hunger and malnutrition from the country and provide the citizens the right to food and for matters connected therewith or incidental thereto.

Whereas millions of people in India suffer due to food scarcity and malnutrition despite surplus food and stocks;

AND Whereas hundreds of people particularly children in the country die each day due to hunger and malnutrition related causes;

AND Whereas the National Family Health Survey 2006 shows that the child under nutrition rate in India is forty-six per cent which is double that of sub-Saharan Africa;

AND Whereas in the Global Hunger Index (2008) India ranks sixty-sixth among the eighty-eight countries surveyed by the International Food Policy Research Institute, women and children are the worst sufferers;

AND Whereas the recently rise in the prices of food has further made the people's access to food difficult.

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Prevention of Hunger and Malnutrition and Right to Food Act, 2009.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) "adequate food" means minimum food and nutrition required for active and healthy life and includes potable water;

(c) "chronic food insecurity" means continuous and on going lack of access to adequate food to meet dietary needs for an active and healthy life style;

(d) "below poverty line" means criteria notified by the Central Government for targeting the people eligible for welfare schemes of the Government;

(e) "extreme poverty" means people living with half of the income notified by Central Government for below poverty line;

(f) "prescribed" means prescribed by rules made under this Act; and

(g) "State" means the Central Government, the State Governments and the local self Governments.

3. (1) Every citizen in the country shall have the right to adequate food.

Right to
adequate food.

(2) The State shall, within a period of five years from the date of commencement of the Act ensure that every citizen in the country has access to adequate food in such quality and manner as may be prescribed.

(3) The State shall ensure that no citizen in its territorial jurisdiction goes without food even for a day and no one lives in chronic food insecurity.

(4) For the purposes of sub-section (1) of section 3, the Central Government shall, in consultation with the Government of States, prepare a comprehensive food security strategy *inter-alia* involving experts, Non-governments Organisations, cooperatives and community based organizations to address the nutrition and food security at the individual and community level.

(5) The Central Government shall, by notification in the Official Gazette announce one or more schemes to give effect to the provisions of section 3.

(6) Without prejudice to the generality of the aforesaid provisions, the people living in extreme poverty shall first be covered under the right to food followed by the people living below poverty line.

(7) The appropriate Government shall, by a special survey, prepare separate data of the families living in extreme poverty and those living below poverty line and assess the need of each household on individual basis.

(8) The appropriate Government shall provide adequate food to the people living in extreme poverty free of cost and to the people living below poverty line at such rate and quantity, as may be prescribed:

Provided that while providing adequate food to the below poverty line families, it shall be ensured that the total expenditure on food for a below poverty line family shall not be more than thirty per cent of the family or individual income.

Committee of experts to determine nutritional needs.

4. The Central Government shall, by notification in the Official Gazette, constitute a committee of experts to determine about the nutritional needs of individual in different areas and occupation depending upon their daily requirement in such manner, as may be prescribed.

Monitoring Committee to oversee the implementation.

5. (1) The Central Government shall, in consultation with Government of each State, appoint a Monitoring Committee in each state and Union Territory to oversee the implementation of the Act and give its periodic report in such manner, as may be prescribed.

(2) The composition and the terms and conditions of the Committee shall be such, as may be prescribed by the Central Government.

(3) Without prejudice to the generality of sub-section (2) of section 5, the Committee shall have in its composition at least five members of Parliament representing the State, who shall be chosen by rotation in such manner, as may be prescribed and also shall have adequate representation of the respected and eminent persons of the State or Union Territory for which the committee is constituted:

Provided that the States and Union Territories represented by less than five members of Parliament shall have in the Committee's Composition the same number of members of Parliament which represent them in Parliament.

Appropriate Government to stimulate rural economy. Wide publicity to the schemes under the Act.

6. The appropriate Government shall make all efforts to stimulate rural economy particularly, agriculture and non-agriculture based activities to increase production and generate employment for the citizens living in rural areas.

7. The Central Government shall give wide publicity through print and electronic media to the provisions of the Act, rules and various schemes launched under it.

Annual report

8. (1) The Central Government shall, in such manner and at such time, as may be prescribed prepare an Annual report giving full account of the activities carried out under the Act particularly the implementation of the national strategy and lay it before each House of Parliament.

(2) For the purpose of sub-section (1) of section 8, the Government of all States shall give all the required inputs within such period, as may be required to submit the annual report in time.

Central Government to provide funds.

9. The Central Government shall, by due appropriation made by Parliament in this regard, provide funds for the purposes of this Act.

Power to remove difficulty.

10. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may make such orders or give such directions, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for the removal of the difficulty:

Provided that no such order shall be made after the expiry of the period of three years from the date of commencement of this Act.

Overriding effect of this Act and savings.

11. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force but save as aforesaid, the provisions of this Act shall be in addition to and not in derogation of any other law, for the time being in force.

Power to make rules.

12. (1) The Government may by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every order and every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament. While it is in

Session, for a total period of thirty days, which may be comprised in one Session or in two or more successive Sessions, and if, before the expiry of the Session, immediately following the Session or the successive Sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be. So, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

There is persistent hunger and malnutrition in many parts of the country contrary to the fact that many a time we have food surplus and stocks. Adverse impact on agriculture and rising food prices are the main reasons for food insecurity in the country. Often, we come across disturbing media reports of starvation death, hunger and malnutrition killing thousands of persons in the country particularly the children. In Madhya Pradesh, Chhattisgarh, Jharkhand and Andhra Pradesh the incidence of child deaths and low weight babies due to malnutrition are very high. Article 21 of the Constitution provides to the citizen of this country right to life. The Right to Food is one of the basic and social rights linked to article 21 without which the political democracy is incomplete. There are shocking results of the National Family Health Survey 2006 showing that child nutrition rate in India is 46% which is double the figures of sub-Saharan Africa, which is economically poorer than India. In the Global Hunger Index 2008, we rank sixty sixth among the eighty-eight and countries come below Sudan, Nigeria and Cameroon.

We are the seventh largest nation in terms of geographical area in the world and have a large fertile land. Therefore, we are strong enough to achieve food security for our citizen. All that is required to be done to achieve it is to have an equitable and sustainable food distribution system along with increase in agriculture activities and enhancing the purchasing power of the citizens to buy food. Certain programmes of the Central Government is inscribed in the National Rural Employment Guarantee Act are already in place to enhance the purchasing power of the citizens. Identifying the right beneficiaries and ensuring that the benefits reach the target group are the two major challenges in giving right to food.

Though only handful countries have achieved total food security and a few of them have enacted legislations. South Africa is one of them. The time has come now to put in place a comprehensive right to food legislation that can check the malnutrition we cannot afford to allow to hunger continue to haunt the country.

Hence this Bill.

MABEL REBELLO

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that there shall be right to food to each citizen of the country. Clause 4 provides that there shall be an expert Committee to determine the nutritional needs. Clause 5 provides for constitution of the Monitoring Committee. Clause 6 talks about stimulating the rural economy and clause 9 says that the Central Government shall provide funds for the purposes of this Act. Though it is very difficult to estimate but it is expected that the legislation may initially require two thousand crore from the Consolidated Fund of India. A non-recurring expenditure to the tune of rupees ten crore may also be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of a normal character.

VII

BILL NO. LIII OF 2009

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

Short title and
commence-
ment.

1. (1) This Act may be called the Constitution (Amendment) Act, 2009.

(2) It shall come into force with immediate effect.

Insertion of
new article
15A

2. After article 15 of the Constitution, the following article shall be inserted, namely:—

Prohibition of
bigamy.

“15A. Except as expressly provided by an Act of appropriate legislature, second marriage between a woman and a man whose wife is living is prohibited and shall be an offence punishable in accordance with law”.

Insertion of
new articles
17A and 17B.

3. After article 17 of the Constitution, the following articles shall be inserted, namely:—

Prohibition of
manufacture,
sale and
consumption
of intoxicating
drinks and
drugs.

“17A. Manufacture, sale and consumption of intoxicating drinks and drugs which are injurious to health except for medicinal purpose and as expressly provided by any law made by the Parliament, is prohibited.

- 17B. (1) Cow shall be the national animal.
- (2) Cow and its progeny shall be entitled to protection in all respects.
- (3) Slaughter of cows, calves and other milch and draught cattle is prohibited.
- (4) Slaughter of cows, calves and other milch and draught cattle shall be an offence punishable in accordance with law".

Prohibition of
slaughter of
cow and its
progeny.

STATEMENT OF OBJECTS AND REASONS

Several Directive Principles of State Policy were incorporated in Part-IV of the Constitution. Out of them articles 44, 47 and 48 are of fundamental importance. However, Article 37 expressly stated that though these articles were declared to be unenforceable by a court of law, they were declared to be fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making law. Though it is nearly six decades from the commencement of the Constitution, as the Centres as well as the States have failed to implement these three articles, it has become necessary in national interest to incorporate these articles in Part-III itself. Non-implementation of these three articles is the cause for many of the problems which the nation is facing.

Firstly, failure to remove gender discrimination in the matter of marriage and divorce which also happens to be the mandate of Article 15 against discrimination *inter alia* on the ground of religion and sex and also a directions of Article 16 of the *Universal Declaration of Human Rights*, is responsible for communal divide of people and inconsistent with equality, feeling of fraternity and the mandate against gender discrimination and secularism which constitute the elements of basic structure of the Constitution.

Secondly, the failure to implement Article 47 has resulted in a disaster in that substantial percentage of youths have become alcohol addicts and have fallen into immoral acts and habits which are incidental to addition to alcohol which is the biggest problem the nation is facing in all its activities.

Moreover, failure to implement Article 48 has in addition to the adversely affecting our cattle wealth and agriculture is also inconsistent with the feeling of fraternity among the citizens and is destructive of the cultural values of this country which hold cow in the highest esteem and consumption of beef is tabooed in our culture. Further, non-violence [*ahimsa*] and service to humanity [*manava seva*] being our national ethos, cow which represents both these values is proposed to be declared as 'National Animal' entitled to protection in all respects, as a mark of our distinction.

Hence this Bill.

M. RAMA JOIS

VIII

BILL NO. LVI OF 2009

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2009.

(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

2. In article 16 of the Constitution, after clause (2), the following clause shall be inserted, namely:—

(2A) Each and every adult man and woman shall have the right to gainful employment according to his or her ability and qualification to work after attainment of his or her age of eighteen years, but before the age of thirty years, in any establishment or in the form of self-employment under the Government programme, failing which the Government shall provide him or her an unemployment allowance as may be prescribed but which shall not be less than the minimum wages.

Short title,
extent and
commen-
cement.

Insertion of
new article
2A..

STATEMENT OF OBJECTS AND REASONS

The number of unemployed youths in our country is increasing at an alarming pace. There are socio-economic reasons for growing unemployment. It is also a reality that given the constraints we have, every person cannot be provided employment though every human being has a brain to think and has hands to work. More the people can be engaged in works, the greater will be the progress of the nation. On the contrary, if a section of people can have no opportunity to work and to devote to the welfare and progress of the country, the country cannot flourish to the extent possible, rather its pace will deteriorate. At the same time, the energy stored in the youths will not be utilized in the country's interest. This will create a situation where "the idle brain would become the devil's work shop".

The right to work is a fundamental one. But it is not so as per the present provisions of the Constitution. That is why an amendment to the Constitution is proposed.

Hence this Bill.

MATILAL SARKAR

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to provide unemployment allowance to every person who is unemployed. Besides, the clause seeks to make right to employment a fundamental right. The Bill, if enacted, would involve fifty thousand crores from the Consolidated Fund of India.

IX

BILL NO. LV OF 2009

*A Bill to amend the Scheduled Tribes and Other Traditional Forest Dwellers
(Recognition of Forest Rights) Act, 2006.*

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Act, 2009.

Short title
and com-
mencement.

(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

2. In section 2 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Bill, 2006 for clause (o), the following clause shall be substituted, namely:—

Amendment in
Act No. 2 of
2007.

“(o) “other traditional forest dweller” means any member or community who has primarily resided in, not later than March 25, 1971, and who depend on the forest or forests land for *bona fide* livelihood needs.”

STATEMENT OF OBJECTS AND REASONS

It is a historical fact that due to partition of the undivided India a number of people from the then Pakistan had to enter into some states of the country, particularly into West Bengal, Tripura and Assam, as refugees. As regards the State of Tripura, the area in the plane terrain is very limited. That is why, quite a good number of these people had to find shelter in the hilly terrains in the forest area also and got settled there in as the traditional forest dwellers under compulsion of a historical phenomenon. Later on, there was another historical event. That was the creation of Bangladesh. After that, the Indira-Mujib Pact was signed between India and Bangladesh. According to that Pact, anyone coming from the erstwhile East Pakistan before 25th March, 1971 is entitled to reside anywhere in India as its citizen. The very incidence of partition does not satisfy the condition of three generations, because the period of 75 years has not elapsed after partition of undivided India has taken place. The People having been forced to leave Pakistan under compelling situation after partition and to leave East Pakistan any time before March 25, 1971 have had the occasion to live in the forest land also. So the criteria like 'at least three generations (75 years)' do not hold good here in the broad perspective of the Act.

Secondly, the state of Tripura during kings' period had witnessed many rebellions against the kings at several periods of time. That is why, the section of tribal people also had to shift their habitations from here to there on many occasions. The fixity of residence for more than 75 years in their cases is a difficult task, though their right to forest is an inborn right. To show a valid document of residence during kings' period or the British period is practically hard task. It is not operational also. Factually, it is not at all wise to depend on the information having origins to the kings' period or the British period, this being the periods of turmoil and uncertainty in most of the times.

These reasons do not refer to Tripura only. The issue of 75 or more years will create problems in some other states also. The application of this condition will keep a big number of deserving families out of the benefit of this historic legislation. That is why the amendment is moved.

Hence this Bill.

MATILAL SARKAR

X

BILL NO. XLIX OF 2009

A Bill further to amend the Representation of the People Act, 1951.

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Representation of the People (Amendment) Act, 2009.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

2. In the Representation of the People Act, 1951, in section 77 clause (3) shall be deleted.

Amendment
of section 77
of Act 43 of
1951.

STATEMENT OF OBJECTS AND REASONS

Quiet often than not, the present ceiling on election expenses for State Assemblies and Parliament is flouted by the candidates, and incorrect affidavits are filed by them of all the expenditure incurred in connection with the election process. There is an urgent need to amend the Representation of the People Act so as to make election process and spending of money more transparent and to see that more accounted money flows in the election process and the role of unaccounted money in election process is reduced. The upper ceiling on expenses should be removed, so that a candidate who wants to reveal his entire expenses can do so. The amendment will make the entire election process more truthful and transparent.

Hence this Bill.

Y. P. TRIVEDI

XI**BILL No. LIV OF 2009**

A Bill to prohibit the slaughter of cow and its progeny and for matters connected therewith.

WHEREAS article 48 of the Constitution enjoins on the State to organize agricultural and animal husbandry on modern and scientific lines and in particular to take steps for preserving and improving the breeds and prohibiting the slaughter of cow and its progeny.

BE it enacted by Parliament in the Sixtieth year of the Republic of India as follows:—

1. (1) This Act may be called the Ban on Cow Slaughter Act, 2009.

(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires, "cow" includes a bull, bullock, ox, heifer or calf.

Short title,
extent and
commence-
ment.

Definition.

Prohibition of
slaughter of
cow.

3. Notwithstanding anything contained in any other law for the time being in force or any usage or custom to the contrary, no person shall slaughter or offer or cause to be offered for slaughter of any cow in any place.

Ban on sell of
beef products

4. No person shall sell or offer for sale or cause to be sold beef or beef products in any form for any purpose.

Penalty.

5. Any person who slaughters a cow or is caught selling beef or beef products shall be punished with imprisonment which may extend to ten years or with fine which may extend to rupees one lakh or with both.

STATEMENT OF OBJECTS AND REASONS

Article 48 of the Constitution enjoins on the State to organize agricultural and animal husbandry on modern and scientific lines and in particular to take steps for preserving and improving the breeds and prohibiting the slaughter of cow and its progeny. In view of the consideration that the cow and its entire progeny must be saved to provide milk, as well as manure, it becomes imperative to impose complete ban on the cow slaughter.

Though some states have imposed the ban, lakhs of cows and its progeny are being carried from these states to the states where the ban has not been imposed and even to other countries.

Various researchers and practical observations have revealed that even after stoppage of milk, the products out of cow dung and urine are being manufactured to such an extent that it is becoming economically beneficial to maintain and nourish them.

The demand for complete stoppage of cow slaughter has come from eminent persons of all religions. Supreme Court has also upheld ban in Gujarat.

Right at present, people from all walks of life have undertaken Vishwa Mangal Gow Gram Yatra throughout the country to educate masses.

Thus, from constitutional and all other angles, it is necessary to ban slaughter of cow and its progeny through a central law.

Hence this Bill.

SHREEGOPAL VYAS

V. K. AGNIHOTRI,
Secretary-General.